

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

DANA-FARBER CANCER INSTITUTE, )  
INC. a/k/a THE JIMMY FUND )

Plaintiff, )

v. )

Cause No. 1:04-cv-12612-RWZ

BOC GROUP, INC. d/b/a BOC GASES )

Defendant/Third-Party Plaintiff/  
Counterclaim Defendant, )

v. )

TAYLOR-WHARTON, HARSCO )  
CORPORATION, GAS & FLUID )  
CONTROL GROUP, )

Third Party Defendants, )

and )

PACER DIGITAL SYSTEMS INC. )

Third-Party Defendant/  
Counterclaim Plaintiff. )

**PACER DIGITAL SYSTEMS, INC.'S**  
**MOTION FOR LEAVE TO WITHDRAW APPEARANCE OF COUNSEL**

Come now Patricia Polis McCrory and Paul C. Sweeney, of the law firm of Harrison & Moberly, LLP, and David A. Barry and Anthony V. Agudelo, of the law firm of Sugarman, Rogers, Barshak & Cohen, P.C., and move the Court to allow the withdrawal of the Appearances of the law firms of Harrison & Moberly, LLP, and Sugarman, Rogers, Barshak & Cohen, P.C., and in support thereof, would show the Court as follows:

1. Suit was filed on December 15, 2004, against BOC Group, Inc. d/b/a BOC Gases.

2. On February 2, 2005, BOC Group, Inc. d/b/a BOC Gases filed a Third-Party Complaint against Taylor-Wharton, Harsco Corporation, Gas & Fluid Control Group, and Pacer Digital Systems, Inc. (“Pacer”).

3. On April 25, 2005, David A. Barry and Anthony V. Agudelo, of the law firm of Sugarman, Rogers, Barshak & Cohen, P.C., filed their Notices of Appearance.

4. On May 11, 2005, Patricia Polis McCrory and Paul C. Sweeney, of the law firm of Harrison & Moberly, LLP, were admitted to practice *pro hac vice* on behalf of Pacer.

5. On July 19, 2005, Pacer, by Warren Oeff, notified its counsel, Harrison & Moberly, LLP, of Pacer’s Board of Director’s decision to proceed *pro se* in this matter due to the financial burden the cost of the defense was placing on the company.

6. On August 1, 2005, Patricia McCrory, on behalf of Harrison & Moberly, LLP, and Sugarman, Rogers, Barshak & Cohen, P.C., notified J. Warren Oeff and Kevin M. Oeff, of Pacer, by letter of the intention to withdraw the Appearances of Harrison & Moberly, LLP, and Sugarman, Rogers, Barshak & Cohen, P.C., based upon Pacer’s July 19, 2005, letter requesting the withdrawal of Harrison & Moberly, LLP.

7. On September 1, 2005, Patricia McCrory again communicated with Pacer regarding the proposed withdrawal and confirmed that Pacer wanted counsel to file their Motion to Withdraw. Pacer has reviewed the current Motion and approved its filing.

8. The Officers and Directors of Pacer have stated that Pacer will proceed *pro se* and documents should be sent to:

J Warren Oeff  
Kevin M. Oeff  
Pacer Digital Systems, Inc.  
8658 Castle Park Drive  
Indianapolis, IN 46256  
Telephone: 317-849-7887

Facsimile: 317-849-3859

E-mails: [warrenoeff@pacerdigital.com](mailto:warrenoeff@pacerdigital.com) and [kevinoeff@pacerdigital.com](mailto:kevinoeff@pacerdigital.com)

WHEREFORE, Patricia Polis McCrory and Paul C. Sweeney, of the law firm of Harrison & Moberly, LLP, and David A. Barry and Anthony V. Agudelo, of the law firm of Sugarman, Rogers, Barshak & Cohen, P.C., respectfully move the Court to allow their withdrawal of Appearances on behalf of Pacer Digital Systems, Inc., and for all other relief just and proper in the premises.

Respectfully submitted,

HARRISON & MOBERLY, LLP

By: s/Patricia Polis McCrory  
Patricia Polis McCrory, #9879-49

By: s/Paul C. Sweeney  
Paul C. Sweeney, #20392-29

Counsel for Third Party Defendant/  
Counterclaim Plaintiff Pacer Digital Systems, Inc.

-and-

SUGARMAN ROGERS BARSHAK & COHEN, P.C.

By: s/David A. Barry  
David A. Barry (BBO #031520)

By: s/Anthony V. Agudelo  
Anthony V. Agudelo (BBO #642260)

Local Counsel for Third Party Defendant/  
Counterclaim Plaintiff Pacer Digital Systems, Inc.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 2<sup>nd</sup> day of September, 2005, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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**ORDER ON PACER DIGITAL SYSTEMS, INC.'S**  
**MOTION FOR LEAVE TO WITHDRAW APPEARANCE OF COUNSEL**

This cause comes before the Court on Pacer Digital Systems, Inc.'s Motion for Leave to Withdraw Appearance of Counsel;

And the Court having examined said Motion and being duly advised in the premises, now grants same.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Appearances of Patricia Polis McCrory and Paul C. Sweeney, of Harrison & Moberly, LLP, and

David A. Barry and Anthony V. Agudelo, of Sugarman, Rogers, Barshak & Cohen, P.C., be and hereby are withdrawn on behalf of Pacer Digital Systems, Inc., and Pacer Digital Systems, Inc., will be *pro se* and documents should be sent to:

J Warren Oeff  
Kevin M. Oeff  
Pacer Digital Systems, Inc.  
8658 Castle Park Drive  
Indianapolis, IN 46256  
Telephone: 317-849-7887  
Facsimile: 317-849-3859  
E-mails: [warrenoeff@pacerdigital.com](mailto:warrenoeff@pacerdigital.com) and [kevinoeff@pacerdigital.com](mailto:kevinoeff@pacerdigital.com)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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JUDGE, U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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